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**AUG 02 2004**

**OFFICE OF PETITIONS**

In re Application of  
David M. Schut  
Application No. 09/866,059  
Filed: May 25, 2001  
Attorney Docket No. 1000592-1

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed May 7, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

Unfortunately, while the petition states that a reply to the October 23, 2003 Office action accompanies the instant petition, no such reply was found. Accordingly, petitioner must submit the reply to the outstanding Office action to revive the instant application.

Further correspondence with respect to this matter should be addressed as follows:

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By fax:                 (703) 872-9306  
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Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.



Frances Hicks  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

ATTACHMENT: Copy of October 23, 2003 Office action